IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3776 OF 2004

Nitin Uttamrao Sathe ... Petitioner

versus

State of Maharashtra ... Respondent

...

Mr. S. Garud i/by Khaitan & Jayakar, for the Petitioner.

Mr. A.S. Gadkari, A.P.P., for the State.

...

CORAM : A.M.KHANWILKAR,J.

14th September 2004

P.C.:

. Heard Counsel appearing for the parties. The learned A.P.P. has brought to my notice that the Applicant had earlier approached this Court at least on two occasions for the same relief. The first was Criminal Application No. 2276 of 2004 which was dismissed on 7th June 2004 for default. Later on, the Applicant applied to this Court for the same relief by way of Criminal Application No. 2101 of 2004, which application

was, however, withdrawn on 13th July 2004 on the statement made by the Counsel that the Applicant would approach the trial Court by way of fresh application. Instead of taking recourse to that remedy, the Applicant has filed this application in this Court without disclosing the above position. In view of the conduct of the Applicant, the application would not only be dismissed, but the Applicant ought to be disrobed from pursuing discretionary remedy before the trial Court, but for the submission made by the Counsel appearing for the Applicant that the Counsel had no instructions about the earlier proceedings and since the Applicant is in jail, incomplete instructions given on his behalf by his Pairaokar ought not to prejudice the Applicant. By way of indulgence, while dismissing this application, the Applicant is given liberty to approach the trial Court in terms of order dated 13th July 2004. That remedy be availed of by the Applicant, if so advised.

(A.M.KHANWILKAR,J.)